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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
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13 In Re: Case No. 25-10088 WJL
14 Kingsborough Atlas Tree Surgery, Inc. Chapter 11
15 Debtor. MOTION FOR AUTHORITY TO SELL
16 PERSONAL PROPERTY
17

18 _____/
19 TO: COMMERCIAL CREDIT GROUP AND PARTIES IN INTEREST

20 Kingsborough Atlas Tree Surgery, Inc. (“Debtor”) hereby moves for authority to sell
21 personal property pursuant to 11 USC § 363(b).
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23 SUMMARY OF RELIEF REQUESTED

24 1. This Motion seeks authority to sell a 2021 Vermeer HG6800TX Horizontal GRINDER
25 w/Dolly, Serial Number 1VRK4804EM1001008, to National Waste Management at the sale
26 price of \$575,000, all cash. The sale is with the consent of Commercial Credit Group (“CCG”)
27 that holds a valid and perfected security interest in the Horizontal Grinder. The proceeds of sale
28 are to be paid to CCG.

JURISDICTION AND VENUE

2. On February 20, 2025, an order for relief under Chapter 11 of Title 11 of the United
States Code was entered herein. Debtor is a debtor-in-possession.

1 3. This Court has subject matter jurisdiction over this matter pursuant to the provisions of
2 28 U.S.C. §§ 1334(b) and 157(b)(2)(A), (M), and (O), 11 U.S.C. § 363. Venue is proper here
3 pursuant to the provisions of 28 U.S.C. § 1409.
4

5 THE SALE

6 A. Terms of Sale

7 Debtor has accepted an offer to purchase a 2021 Vermeer HG6800TX Horizontal
8 GRINDER w/Dolly, Serial Number 1VRK4804EM1001008, from National Waste Management,
9 at the sale price of \$575,000, all cash. Debtor arrived at the sale price through a long time
10 employee, Todd Eisenhauer, who has been involved with the purchase and sale of heavy
11 equipment for the past 35 years through TDE Equipment, Inc., a California Corporation formed
12 by him in 2014. Todd has also been buying and selling equipment used in the tree care business
13 for the Debtor for more than 20 years.
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15 The starting point for determining the sale price was an appraisal of all of the equipment
16 owned by the Debtor that was started in late 2022 and finished in June of 2023. Among the
17 factors considered by Todd was the wear and tear of the equipment over the last two years and
18 how the depreciation of the equipment affected the value. Todd looked at what similar equipment
19 was available on the market by going to web sites such as Machinery Trader and Truck Trader,
20 and looked at the results of auction sales at Ritchie Bros. Todd spoke with the dealers who sold
21 the equipment to the Debtor and people Todd has known in the industry during the thirty-five
22 years Todd has been in the business.
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25 B. The Sale Is in the Best Interest of the Estate

26 11 U.S.C. Section 363(b) authorizes a debtor in possession to sell property of the Estate
27 outside the ordinary course of business after notice and hearing. Pursuant to FRBP 6004(f)(1),
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1 this sale may be conducted by either private sale or public auction. "The court's obligation in
2 Section 363(b) sales is to assure that optimal value is realized by the estate under the
3 circumstances. The requirement of a notice and a hearing operates to provide both a means of
4 objecting and a method for attracting interest by prospective purchasers. Ordinarily, Bankruptcy
5 courts typically review a transaction proposed under section 363(b)(1) using a "business
6 judgment" standard. *In re Equity Funding Corp. of Am.*, 519 F.2d 1274, 1277 (9th Cir. 1975).
7 This is a "deferential" standard pursuant to which a "bankruptcy court will generally approve" a
8 reasoned decision by the debtor. *Mission Prod. Holdings v. Tempnology, LLC* 139 S. Ct. 1652
9 at 1658.
10

11
12 The sale of the equipment Debtor no longer needs, will result in lowering Debtor's
13 operating expenses while paying down the secured claim of CCG. Debtor submits that it is a
14 sound exercise of its business judgment and should be approved.

15 WHEREFORE, Debtor prays for an order authorizing the sale of the equipment on the
16 terms set forth above, and for such other and further relief as the court deems proper.
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19 Dated: May 21, 2025

/s/ Michael C. Fallon

Michael C. Fallon
Attorney for Debtor
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